

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIA AGUIRRE

v.

PLAZAMERICAS MALL TEXAS, LLC

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§

C.A. No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. sections 1441 and 1446, PlazAmericas Mall Texas, LLC (“PlazAmericas”), Defendant in Cause No. 2018-29426, *Maria Aguirre vs. PlazAmericas Mall Texas, LLC*, pending in the 55th Judicial District Court of Harris County, Texas (the “State Court Action”), serves this Notice of Removal (“Notice”) removing the State Court Action to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity jurisdiction. The Notice is based on the following grounds.

I. INTRODUCTION

1.1 On May 2, 2018, Maria Aguirre (“Plaintiff”) filed the State Court Action against Defendant PlazAmericas Mall Texas, LLC, which was served on May 7, 2018, with Plaintiff’s Original Petition. PlazAmericas files this Notice within the 30-day period required by 28 U.S.C. section 1446(b), and therefore removal is timely.

II. BASIS FOR REMOVAL

2.1 28 U.S.C. section 1441(a) provides, “[e]xcept as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

2.2 28 U.S.C. section 1332(a) provides, “(a) [t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between (1) citizens of different States; (2) citizens of a State and citizens or subjects of a foreign state, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State.” 28 U.S.C. § 1332(a)(1)-(2).

2.3 Removal is proper because there is complete diversity between the parties, as PlazAmericas is diverse from the Plaintiff, and so this is an action between “citizens of different states.” 28 U.S.C. § 1332(a)(1). Plaintiff is an individual residing in Harris County, Texas.¹ PlazAmericas is a citizen of Maryland and Pennsylvania for purposes of diversity.

2.4 Defendant PlazAmericas is a Delaware limited liability company. It has two members, Sharpstown Member LLC and RAIT Sharpstown TRS, LLC. Sharpstown Member LLC and RAIT Sharpstown TRS, LLC are both Delaware limited liability companies. Each is owned 100% by RAIT Partnership, L.P., a Delaware limited partnership. RAIT Partnership L.P. is owned 1% by RAIT General, Inc., and 99% by RAIT Limited, Inc. RAIT General, Inc., and RAIT Limited, Inc., are both Maryland corporations with their principal place of business in Pennsylvania, and both corporations are owned 100% by RAIT Financial Trust. RAIT Financial Trust is a Maryland real estate investment trust with its principal place of business in Pennsylvania. Consequently, PlazAmericas is for diversity purposes a citizen of the States of Maryland and Pennsylvania.

¹ See Exhibit A, Index of Matters Filed, at its Exhibit A-1, Plaintiff’s Original Petition and Request for Disclosure (“Plaintiff’s Original Petition”), at section II.

2.5 The amount in controversy exceeds \$75,000, excluding interest and costs. Plaintiff, in her Original Petition, has pleaded she “seeks monetary review of over \$200,000 but not more than \$1,000,000.”²

III. THE VENUE REQUIREMENT IS MET

3.1 Venue of this removed action is proper in this Court pursuant to 28 U.S.C. section 1441(a) because the State Court Action was filed in Harris County, Texas, and the United States District Court, Southern District of Texas, Houston Division, embraces the place where that action is pending.

IV. FILING OF REMOVAL PAPERS

4.1 Pursuant to 28 U.S.C. section 1446(d), a Notice of Filing Notice of Removal is contemporaneously being given to all adverse parties and filed with the District Court of Harris County, Texas, 55th Judicial District Court.

V. PAPERS FROM REMOVED ACTION

5.1 Pursuant to 28 U.S.C. section 1446(a) and Local Rule 81, a true and correct copy of all the process, pleadings, orders, and documents from the State Court Action are being filed with this Notice of Removal, attached in *globo* to Exhibit A (Index of Matters Filed).

VI. CONCLUSION

6.1 This action is removable because complete diversity exists between the Plaintiff, a citizen of Texas, and PlazAmericas, a citizen of Maryland and Pennsylvania for diversity purposes. In addition, the amount in controversy is in excess of \$200,000.³ See 28 U.S.C. § 1332(a). Thus, the

² See Exhibit A-1, Plaintiff’s Original Petition, at section III.

³ See Exhibit A-1, Plaintiff’s Original Petition, at its section III.

State Court Action may be removed to this Court by Defendant in accordance with the provisions of 28 U.S.C. section 1441(a) because (1) the action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas; (2) this action is between citizens of different States; and (3) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6.2 By this Notice of Removal, PlazAmericas does not waive any objections it may have to service, jurisdiction or venue, or any other defenses or objections it may have in this action. PlazAmericas intends no admission of fact, law, or liability by this Notice, and expressly reserves all defenses, motions or pleas.

Dated June 6, 2018

Respectfully submitted,

/s/ David S. Toy

David S. Toy

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served upon all counsel of record via email transmission, in accordance with the Federal Rules of Civil Procedure, this 6th day of June, 2018.

/s/ David S. Toy

David S. Toy